

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JOSE J. RIVERA-GUERRA,

Petitioner,

v.

CIVIL ACTION NO. 5:15-cv-05184

JOE COAKLEY,

Respondent.

MEMORANDUM OPINION AND ORDER

One April 24, 2015, the Petitioner's, acting *pro se*, filed his *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1).

By *Standing Order* (Document 4) entered on April 27, 2015, this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On September 13, 2016, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 13) wherein it is recommended that this Court deny the Petitioner's *Application*, dismiss the action with prejudice, and remove the matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by September 30, 2016¹.


¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Petitioner was returned as undeliverable on September 23, 2016, and re-mailed to a different address on that date. As of October 17, 2016, no objections had been filed.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Petitioner's *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1) be **DENIED**, this action be **DISMISSED with prejudice** and **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: October 18, 2016


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA